

United States Courts  
 Southern District of Texas  
 FILED  
 MAY 29 2011  
 David J. Bradley, Clerk of Court

## UNITED STATES DISTRICT COURT

SOUTHERN

DISTRICT OF

HOUSTON DIVISION

UNITED STATES OF AMERICA  
V.

Fernando Procopio Zavala

## CRIMINAL COMPLAINT

Case Number: H11-608m

W

(Name and Address of Defendant)

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about May 29, 2011 in Wharton County, in the Southern District of <sup>(Date)</sup> Texas defendant(s) did,

(Track Statutory Language of Offense)

Knowingly and intentionally possess with intent to distribute more than 1000 kilograms of a schedule I controlled substance, namely marijuana and conspiracy to possess with intent to distribute more than 1000 kilograms of marijuana, a schedule I controlled substance, in violation of Title 21, United States Code, Sections 841 (a)(1), 841 (b)(1)(A) and 846.

in violation of Title 21 United States Code, Section(s) 841(a)(1), 841(b)(1)(A) and 846.

I further state that I am a(n) HSI Senior Special Agent and that this complaint is based on the following facts:

See attached Affidavit in Support of Criminal Complaint.

Continued on the attached sheet and made a part of this complaint:

Yes  No

Signature of Complainant

Chad Boucher

Printed Name of Complainant

Sworn to before me and signed in my presence, and I find probable cause.

05/29/2011  
Date

at

Houston  
City

Texas  
State

Stephen Wm. Smith      United States Magistrate  
Name of Judge              Title of Judge

Signature of Judge

Stephen Wm. Smith

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Chad Boucher, being duly sworn, here by depose and state:

1. I am Chad Boucher a Senior Special Agent (SS/A) of the United States Homeland Security Investigations (HSI), assigned to the Office of the Special Agent in Charge (SAC), Houston, Texas. I have been so employed since September of 2001. I am currently assigned to the Currency Narcotics Enforcement Team (CNET) in Houston, Texas. The information contained in this affidavit is based upon my own knowledge, experience, and training in narcotics and currency investigations, and the training and experience of other law enforcement officers with whom I have had discussions.
2. The information enumerated in the paragraphs below, furnished in support of this affidavit, is derived from my own observations and based upon the observations of Texas Department of Public Safety Troopers, Houston Police Department Officers and other United States Homeland Security (HSI) Special Agents. Because this affidavit is being submitted for the limited purpose of establishing probable cause for this arrest, the affidavit may not contain every fact known to me during the course of this investigation.
3. On May 28, 2011, HSI SAC/Houston Special Agents were conducting a narcotics investigation involving a cloned "Auto Tanques Nieto" tractor truck and tanker trailer that was carrying narcotics from the Rio Grande Valley of South Texas to the Houston, Texas area. At approximately 0245 hrs, a Department of Public Safety Trooper conducted a traffic stop of the tractor truck and tanker trailer in El Campo, Texas. A search of that tanker trailer discovered 9422.2 lbs of marijuana concealed inside the tanker trailer. During the course of that investigation it was discovered that the organization also had an additional cloned "Auto Tanques Nieto" tractor truck and tanker

trailer that were utilizing to carry narcotics from the Rio Grande Valley of South Texas to the Houston, Texas area. HSI Special Agents passed this information to Texas Department of Public Safety Officers working in the Wharton County, Texas area.

4. On May 29, 2011 at approximately 0830 hrs, Texas DPS Trooper Kelly Kreig observed an "Auto Tanques Nieto" tractor truck and tanker trailer traveling northbound on Interstate 59 in El Campo, Texas. Trooper Kreig observed the truck tractor and tanker trailer drive onto the shoulder of the road and conducted a traffic stop of the vehicle near mile marker 584 in El Campo, Texas. The driver of the vehicle was identified as Fernando Procopio Zavala. As the trooper approached the vehicle he noticed that the truck tractor and tanker trailer appeared to have been sprayed with mud to appear dirty and didn't appear to be usual for highway driving. Trooper Kreig also noticed that the inside of the mud flaps were clean and not muddy. Trooper Kreig questioned Zavala about running off the side of the road and about the details of his travel. While talking to Zavala he noticed that Zavala appeared to be nervous. Trooper Kreig asked Zavala for consent to search the tractor truck and trailer and Zavala stated that he could search the truck tractor and tanker trailer. At that time Trooper Kreig asked Zavala to move the tractor truck and tanker trailer off the road to the Wharton County Precinct 4 barn.

5. At approximately 0935 hrs, I arrived at the Wharton County Precinct 4 barn and spoke with ZAVALA. I informed Zavala that we were currently conducting a narcotics investigation and informed Zavala of the previous seizure of the Auto Tanques Nieto truck tractor and tanker trailer. While talking with Zavala in the presence of Trooper Kreig, Zavala shook his head up and down and stated that there was marijuana inside the vehicle.

6. At approximately 0950 hrs, Trooper Ochoa and K-9 "Pansini" conducted search of the exterior of the tanker trailer and K-9 "Pansini" alerted to the presence of a narcotic odor.

7. At approximately 1006 hrs, I read Zavala his rights per Miranda from an issued Miranda Warnings card with Trooper Ochoa as a witness. Zavala stated that he understood his rights and was willing to speak with law enforcement. Zavala stated that he was told there was marijuana inside the tanker trailer and was supposed to get paid \$10,000 for driving the load of marijuana. Zavala further stated that he picked up the tractor trailer at a truck stop in Edinburg, Texas and was supposed to drive the truck tractor and tanker trailer to a truck stop in Houston, Texas. Zavala stated this was the first time driving a load of marijuana and that he made a mistake. Zavala is employed with F&M Trucking that drives "Auto Tanques Nieto" tanker trailers.

8. At approximately 1043 hrs, a search of the inside of the tanker trailer was conducted and 521 bundles of marijuana were discovered weighing approximately 12,650 lbs. The substance was field tested by S/A Robert Minjarez and Trooper Kreig at approximately 1816 hours on May 29, 2011 and the test was positive for marijuana.

9. Based on my experience and the aforementioned facts and observations, the affiant believes there is probable cause to believe that Fernando Procopio Zavala did knowingly and intentionally possess with intent to distribute more than 1000 kilograms of a schedule I controlled substance, namely marijuana and conspiracy to possess with intent to distribute more than 1000 kilograms of marijuana, a schedule I controlled substance, in violation of Title 21, United States Code, Sections 841 (a)(1), 841 (b)(1)(A) and 846.

  
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Chad Boucher, Senior Special Agent  
Homeland Security Investigations

SUBSCRIBED AND SWORN TO before me this 29<sup>th</sup> day of May 2011, and I  
find probable cause.

  
\_\_\_\_\_  
Stephen Wm. Smith  
UNITED STATES MAGISTRATE JUDGE